

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMTAX HOLDINGS 260, LLC, an Ohio
limited liability company, AMTAX
HOLDINGS 114, LLC, an Ohio limited
liability company, and ALDEN TORCH
FINANCIAL LLC, a Delaware limited
liability company,

Plaintiffs,

v.

WASHINGTON STATE HOUSING
FINANCE COMMISSION, a public body
Corporate and politic of the State of
Washington, BILL RUMPF, an individual,
LISA J. BROWN, an individual, DIANE
KLONTZ, an individual, DUANE
DAVIDSON, an individual, JASON
RICHTER, an individual, RICH
NAFZIGER, an individual, ALBERT
TRIPP, an individual, RANDY
ROBINSON, an individual, ALISHIA
TOPPER, an individual, LOWEL
KRUEGER, an individual, KEN A.
LARSEN, an individual, and WENDY L.
LAWRENCE, an individual,

Defendants.

No. 2:20-cv-01698-BJR

JOINT STATUS REPORT AND
DISCOVERY PLAN

Pursuant to Fed. R. Civ. P. 26(f) and the Court's Order dated February 16, 2021 (Dkt.
No. 30), the parties, through their respective counsel, submit the following Joint Status Report
and Discovery Plan.

JOINT STATUS REPORT AND
DISCOVERY PLAN
(No. 2:20-cv-01698-BJR) – 1

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1 1. Statement of the Nature and Complexity of the Case. Plaintiffs AMTAX
 2 Holdings 260, LLC (“AMTAX 260”) and AMTAX Holdings 114, LLC (“AMTAX 114”) are
 3 investor limited partners in federal low-income housing tax credit (“LIHTC”) projects in the
 4 State of Washington. Plaintiff Alden Torch Financial LLC (“Alden Torch”) owns or manages
 5 AMTAX 260, AMTAX 114, and other LIHTC investors in Washington. Defendants are the
 6 Washington State Housing Finance Commission (the “Commission”), the agency responsible for
 7 administering the federal LIHTC program in Washington, and individual members of the
 8 Commission, who are named solely in their official capacity. The parties dispute the
 9 constitutionality of the Commission’s policy regarding transfers of investor interests in LIHTC
 10 projects in Washington. The parties believe the case will require analysis of numerous
 11 constitutional issues, including ripeness, mootness, separation of powers, and claims brought
 12 based on the First and Fourteenth Amendments and the Contracts Clause of the United States
 13 Constitution.

14 2. A proposed deadline for joining additional parties. The parties propose
 15 May 11, 2021 as the deadline for joining additional parties.

16 3. Consent to Magistrate. No.

17 4. Proposed Discovery Plan.

18 a. Initial Disclosures. The parties exchanged initial disclosures on March 23, 2021.

19 b. Subjects, Timing, and Potential Phasing of Discovery. Discovery will be sought
 20 on all allegations, claims, and affirmative defenses, and will be conducted by
 21 depositions, interrogatories, requests for admission, and requests for production of
 22 documents. The parties may also undertake non-party discovery to determine the
 23 facts surrounding the claims at issue. The parties believe that discovery should
 24 proceed pursuant to the Federal Rules of Civil Procedure and Local Rules. The
 25 parties may have different views about the scope of discovery that would be
 26 permitted under those Rules. But the parties agree to try to attempt to resolve this

and any other discovery disputes amicably and expeditiously as the case proceeds.

The parties propose following discovery deadlines:

Deadline	Requested Date
Non-expert discovery	November 19, 2021
Initial Expert Disclosure	December 3, 2021
Rebuttal Expert Disclosure	December 22, 2021
Expert discovery	January 19, 2022

- c. Electronically Stored Information (“ESI”). The parties do not anticipate particular problems with electronic discovery, and agree to enter into a form of stipulation similar to the Model Protocol for Discovery of Electronically Stored Information in Civil Litigation, adapted for the circumstances of this case.
- d. Privilege Issues. The parties contemplate exchanging privilege logs and agree that privileged communications between counsel and their clients after February 25, 2021 need not be logged. The Parties further agree that communications solely about the lawsuit, and not about any potential, proposed, or actual changes to the policy at issue, do not need to be logged.
- e. Proposed Limitations on Discovery. The parties agree at this time that discovery should proceed in accordance with the Federal Rules of Civil Procedure and Local Rules, and that no additional limitations should be imposed, subject to the parties’ above agreement to attempt to resolve any discovery disputes amicably and expeditiously, including with regard to the scope of discovery.
- a. The Need for Any Discovery Related Orders. Aside from potential stipulated proposed orders regarding ESI or confidentiality, the parties do not believe that any other discovery related orders need to be entered by the Court at this time.
5. Views on Local Civil Rule 26(f)(1).

- a. Prompt Case Resolution. The parties will maintain an open dialogue about resolution throughout the life of this case, but currently have no specific suggestions for prompt resolution of the case.
- b. Alternative Dispute Resolution. The parties agree that mediation, if necessary, is the most appropriate type of alternative dispute resolution in this case, and will work together on scheduling mediation as appropriate.
- c. Related cases. The parties are unaware of any related cases as defined in Local Civil Rule LCR 3(g)(4).
- d. Discovery Management. See Section 4 above.
- e. Anticipated Discovery Sought. See Section 4 above.
- f. Phasing Motions. The parties agree that motions should proceed unmodified pursuant to the Federal Rules of Civil Procedure and Local Rules.
- g. Preservation of Discoverable Information. Alden Torch has issued a litigation hold. The Commission has preserved and is preserving all potentially relevant records in accordance with record retention requirements under state law and its obligations as a Party to this federal action.
- h. Privilege Issues. See Section 4 above.
- i. Model Protocol for Discovery of ESI. See Section 4 above.
- j. Alternatives to Model Protocol. See Section 4 above.
6. The Date by Which Discovery Can Be Completed. See Section 4 above.
7. Bifurcation. The parties do not believe bifurcation is necessary at this time.
8. Necessity of Pretrial Statements and Order. The parties do not believe that the pretrial statements and pretrial order called for by Local Civil Rules 16(e), (h), (i), and (k), and 16.1 should be dispensed with in this case.
9. Other Suggestions to Shorten or Simplify Case. None.

1 10. Date Case Will Be Ready for Trial. The parties agree the case will be ready for
2 trial by May 16, 2022.

3 11. Jury or Non-Jury Trial. The parties request a non-jury trial.

4 12. Number of Trial Days. The parties currently estimate that one week will be
5 required if this matter goes to trial.

6 13. Names, Addresses, and Telephone Numbers of all Trial Counsel.

7 a. For Plaintiffs:

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21 b. For Defendants:

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24 Alanna E. Peterson
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 14. Dates on Which Trial Counsel May Have Complications to be Considered in
 Setting a Trial Date. Both Plaintiffs' counsel and Defendants' counsel currently have trials
 scheduled in other matters during the months of March and April 2022.

 15. Status of Service. Defendants have been served and have filed a motion to
 dismiss the Complaint.

1 16. Scheduling Conference. The parties do not believe that a scheduling conference
2 is necessary.

3 17. Disclosure Statements. Plaintiffs filed their disclosure statements on November
4 11, 2020.

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6 Respectfully submitted this 30th day of March, 2021.

7 **Perkins Coie LLP**

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